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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the European Union, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-72349 (E) 240102 200202

Annex

[Original: English, French and Spanish]

Note verbale dated 24 December 2001 from the Permanent Mission of Belgium to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Belgium to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to refer to his note SCA/20/01 (6).

Pursuant to paragraph 6 of resolution 1373 (2001), the Permanent Mission of Belgium has the honour to transmit herewith the report of the European Union containing the coordinated response of its 15 member States (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, United Kingdom and Sweden) on the steps they have taken to implement the resolution.

Enclosure

Report of the European Union to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Please find attached the report of the European Union on counter-terrorism measures, transmitted by the Presidency on behalf of the European Union.

The report was drafted by the Council and the Commission and adopted by the Council on 20 December.

Louis **Michel**
Minister for Foreign Affairs of the Kingdom of Belgium

REPORT BY THE EUROPEAN UNION TO THE COMMITTEE ESTABLISHED UNDER PARAGRAPH 6 OF RESOLUTION 1373 (2001) ADOPTED BY THE SECURITY COUNCIL AT ITS 4385TH MEETING ON 28 SEPTEMBER 2001

United Nations Security Council Resolution 1373 calls upon all States to report within 90 days to the Committee established under the provisions of the Resolution on the steps taken to implement the Resolution. The following constitutes a report submitted by the European Union which covers actions taken within the framework of the Treaty on the European Union and the Treaty establishing the European Community. It does not cover actions undertaken by individual EU Member States (Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Austria, Portugal, Finland, Sweden, United Kingdom) outside this framework. It is therefore complementary to the reports which EU Member States are required to submit in their national capacity.

This report is set out according to the guidelines circulated by the Chairman of the Committee established under UNSCR 1373.

On 10 December the Council of the European Union reached agreement on a Common Position which provides for the application of specific measures in order to combat terrorism. This instrument is a basis for many of the measures which are foreseen as the European Union's response to the provisions of UNSCR 1373.

1 (a) What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in response to questions on 1 (b) to (d)?

The Special Recommendations on terrorist financing adopted at the Extraordinary Plenary Meeting of the Financial Action Task Force on Money Laundering on 29-30 October 2001 relate to a number of the issues covered in Operative Paragraphs 1 and 2 of the Resolution. It is intended that these recommendations be at least partly implemented by measures taken within the framework of the Treaty on European Union (EU) and the Treaty establishing the European Community (EC).

1 (b) What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

This is a matter for EU Member States.

1 (c) What legislation and procedures exist for freezing accounts and assets at banks and financial institutions?

In the framework of restrictive measures against third States established under articles 301 and 60 of the Treaty establishing the EC, the Council adopted a Regulation on 6 March 2001 (Council Regulation (EC) 467/2001) providing for the freezing of all funds and other financial resources belonging to any natural or legal person, entity or body designated by the "Afghanistan Sanctions Committee" (established under UNSCR 1267) and listed in one of the annexes to the Regulation. As provided for under the terms of the Regulation, the European Commission has on four occasions amended the list annexed to the Regulation on the basis of decisions made either by the UN Security Council or the Sanctions Committee, adding new persons and entities to the list. The last three amendments target Osama bin Laden and the Al Qaida network .

In order to adapt to the wider scope of measures covered by UNSCR 1373, and in order to be able to reach those persons who commit, attempt to commit, participate in or facilitate terrorist acts, but are not linked to any one State, the Council of the European Union, at its meeting on 10 December, reached agreement on a common position and a Regulation which together constitute a legal requirement to freeze and withhold the availability of funds, other financial assets and economic resources, to any previously identified natural or legal person, group or entity figuring in lists annexed to the legislation. It is expected that this legislation will enter into force early in 2002.

1 (d) What measures exist to prohibit the activities listed in this sub-paragraph?

These are covered in part by the response under point 1(c). In addition, existing legislation (in the form of a Council Directive (91/308/EEC, adopted in 1991) aims to prevent the use of the financial system for money laundering. Its provisions include an obligation on financial institutions to maintain appropriate records and to establish money-laundering programmes. It also provides for the suspension of banking secrecy when necessary and an obligation to report suspicious transactions to reporting authorities.

The 1991 Directive was amended on 19 November 2001. The new directive extends the prohibition of money laundering to most organised and serious crime. It also extends the coverage of the earlier directive to include a number of non-financial activities and professions which are vulnerable to misuse by money launderers. The EU Member States have agreed that all offences linked to the financing of terrorism constitute a serious crime under the directive.

2 (a) What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Measures aimed at prohibiting the supply of weapons to terrorists are covered by a Council Directive (91/477/EEC) of 1991 on the control of the acquisition and possession of weapons. This imposes a number of obligations on EU Member States, including the requirement to ensure that those acquiring or possessing firearms are not likely to be a danger to public order or safety. The directive also prohibits the acquisition and possession of certain types of firearms.

On 16 October 2001, the Council adopted a decision authorising the signature of the UN Protocol on the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition (annexed to the Convention against transnational organised crime) on behalf of the European Community. This paves the way for implementation of those aspects of the Protocol which are subject to Community competence.

The EU Code of Conduct on the exports of military equipment is an important tool in minimising the risk of European armaments being diverted to terrorist organisations. Further security is provided through the Council Regulation (EC) No 1334/2000 of 22 June 2000 governing dual use goods.

The European Union has more generally been reconsidering its relations with third countries in the light of the stand taken by those countries in combatting terrorism. On 17 October 2001, the Council adopted an objective set of indicators in order to help the EU to evaluate systematically its relations with third countries. The EU is undertaking a review of its relations with third countries in the light of this evaluation.

2 (b) What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

At its meeting on 20 September 2001, the Council agreed on a number of measures to intensify information exchange between EU Member States. These include regular meetings of the heads of Member States' anti-terrorist units, as well as of their intelligence agencies. Cooperation between EU Member States and Europol has also been stepped up, and includes the detachment of anti-terrorist specialists from Member States to work within Europol. The Council decision on 6 December 2001 to make Eurojust fully operational will also facilitate the exchange of operational information. (See under point 2 (e) below.)

2 (c) What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph?

Article 23(1) of the Convention implementing the Schengen Agreement, which forms part of EC law, provides that aliens who do not fulfil or who no longer fulfil the conditions applicable within the territory of a Member State bound by the Schengen Agreement shall normally be required to leave the Schengen Territory immediately. When departure is not voluntary, or if the immediate departure of the alien is necessary for reasons of national security or public order, removal is to be carried out in accordance with the national law of the Member State in which the person was apprehended.

Harmonisation of legislation in this area should take place in the context of the Council Directive (2001/40/EC) of 28 May 2001 on the mutual recognition of decisions on the expulsion of third-country nationals, the aim of which is to ensure more effective enforcement of these measures and better cooperation between EU Member States.

2 (d) What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens?

In addition to the measures given in response under 2 (b), the Schengen Information (computer) System (SIS) offers several possibilities for preventing terrorists from using the territories of the EU Member States. Efforts are being made to improve the use of the SIS. For example: the authorities will encourage the introduction of warnings by default, and national warnings fulfilling the criteria for introduction into the SIS will be introduced as automatically as possible and should not require any additional operation from the initiating authority. In addition, the consultations foreseen about warnings on persons for the purposes of discreet surveillance will be simplified. At Europol, a task force composed of twenty specialists on anti-terrorism was created at short notice after 11 September and is now fully operational.

2 (e) What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts?

On 6 December 2001, the Council reached political agreement on a Framework Decision on combatting terrorism. This legislation includes a common definition of various types of terrorist offences and serious criminal sanctions. The legal text will be adopted shortly, and EU Member States have until the end of 2002 to implement the measures in their own criminal law.

Political agreement has also been reached on a framework decision for a European arrest warrant. This is designed to supplant the current procedures of extradition between EU Member States and enable wanted persons to be surrendered to judicial authorities in other EU Member States without verification of the double criminality of the act for a wide range of offences, subject to agreed swift judicial review procedures.

On 6 December 2001, the Council reached political agreement on a text setting up the judicial cooperation unit Eurojust. Its objective is to improve and encourage cooperation between the competent national authorities, in particular by facilitating mutual legal assistance and the implementation of extradition requests.

2 (f) What procedures and mechanisms are in place to assist other states?

See response given under 2 (d) above.

2 (g) How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

An Early Warning System was established by Council Resolution of 11 May 1999 for the transmission of information on illegal immigration and facilitator networks. This system is available to both EU Member States and candidate countries, and has been used increasingly since 11 September 2001.

A uniform format for visas issued by EU Member States is required by a Council Regulation (EC) No 1683/95 of 29 May 1995. It provides for procedures and specifications to prevent the production and use of counterfeit or false visas.

3 (a) What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

See response given under 2 (b) above. In addition, existing EC legislation regulating data protection provides for flexibility in the exchange of information where this contributes to the fight against terrorism.

3 (b) What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

The European Union is intensifying its cooperation specifically with the United States in these areas. Following the events of 11 September 2001, the United States submitted to the EU Strategic Committee on Immigration, Frontiers and Asylum, at a joint meeting on 26 October 2001, proposals for cooperation in border control and migration management. These proposals are currently under examination.

3 (c) What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

In addition to the measures set out under 2 (b), the Council has taken a number of steps to enhance EU cooperation with third countries. High level contacts have led in particular to a stepping up of law enforcement and judicial cooperation between the EU and US. On 6 December 2001 an agreement was signed which provides for cooperation and the exchange of non-personal information between Europol and the US, and negotiations have begun on an agreement on the exchange of personal data.

Specific emphasis has been given to using the provisions in existing bilateral agreements to step up cooperation on counter-terrorism. More generally, the European Commission is examining the European Community's external aid programmes, budget lines and country strategies to establish what further assistance might be provided within the framework of the EC's existing assistance programmes. The EC is already providing assistance to a number of third countries in areas such as governance and the reinforcement of judicial and legal systems.

3 (d) What are your intentions regarding the signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

All EU Member States have now signed the Convention on the Suppression of terrorism financing.

3 (e) Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph?

The EU has been promoting actively the signature and ratification by all States of all the UN conventions on terrorism (in particular the Convention on the Suppression of terrorism financing), as well as the completion of the negotiations on the draft Comprehensive Convention on international terrorism. It has

in particular taken advantage of all its political dialogue meetings with third countries, where terrorism now regularly features on the agenda, so as to address with those countries the specific issue of the terrorism conventions.

3 (f) What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status?

The EU Council focused its work on the proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status. At its meeting on 6 and 7 December 2001, the Council adopted conclusions on this matter and took note of the Commission's intention to present a modified proposal.

The Council also pursued its work concerning the proposal for a Council Directive laying down minimum standards for the reception of applicants for asylum in EU Member States and the proposal for a Council Regulation establishing the criteria and mechanisms for determining the EU Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. This Regulation will replace the 1990 Dublin Convention between EU Member States.

Existing EC instruments in the field of asylum all contain standard provisions to allow persons thought to be terrorists or to pose a terrorist threat to be excluded from the right to international protection and residency or denied access to certain benefits.

3 (g) What procedures are in place to prevent the abuse of refugee status by terrorists?

See the response given under 3 (f) above.